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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF RECLAMATION

AGREEMENT AMONG THE UNITED STATES OF AMERICA, EMERY WATER
CONSERVANCY DISTRICT, COTTONWOOD CREEK CONSOLIDATED IRRI-
GATION COMPANY AND THE EPHRAIM IRRIGATION COMPANY FOR THE
STORAGE AND EXCHANGE OF WATER

THIS AGREEMENT, made this 8th day of October, 19 69,
among THE UNITED STATES OF AMERICA, herein called the United States,
acting pursuant to the Act of June 17, 1902 (32 Stat. 388), and acts
amendatory thereof or supplementary thereto, represented by the
Regional Director, Region 4, Bureau of Reclamation; the EMERY WATER
CONSERVANCY DISTRICT, organized and existing under the laws of the
State of Utah, herein called the District; the COTTONWOOD CREEK
CONSOLIDATED IRRIGATION COMPANY, a corporation, organized under the
laws of the State of Utah, herein called Cottonwood; and the EPHRAIM
IRRIGATION COMPANY, a corporation organized under the laws of the
State of Utah, herein called Ephraim.

WITNESSETH That:

WHEREAS, the United States has constructed (1) Joes Valley
Dam and Reservoir, a feature of the Emery County Project, for the
diversion, storage, and distribution of the waters of Cottonwood
Creek and its tributaries for irrigation, fish and wildlife, and
recreational purposes within the Emery County Project area, and (2) the
Ephraim Tunnel and collection works, features of the Sanpete Project,
for the collection and transmountain diversion of water from the
Cottonwood Creek watershed to the San Pitch River drainage area for

the irrigation of Sanpete Project lands, and

WHEREAS, Cottonwood has certain decreed and other rights to divert and use the flows of Cottonwood Creek and its tributaries as defined and recognized in that certain contract between the United States and Cottonwood Creek Consolidated Irrigation Company, Contract No. 14-06-400-2522, dated June 25, 1962, relating to the exchange and adjustment of water rights; Ephraim has certain rights to divert the flows of certain tributaries of Cottonwood Creek through the Ephraim Tunnel as defined and recognized in that certain agreement among the United States, Emery Water Conservancy District and Ephraim Irrigation Company, Contract No. 14-06-400-5132, dated October 2, 1969; and the United States has certain water rights in Cottonwood Creek and its tributaries for the benefit of the Emery County and Sanpete Projects described in said October 2, 1969, contract referred to above; and

WHEREAS, at times there is unused capacity in Joes Valley Reservoir that can be used to effect a better conservation and utilization of the Cottonwood Creek drainage area water resource.

NOW, THEREFORE, in consideration of the mutual and dependent stipulations and covenants herein contained, it is hereby mutually agreed by and among the parties hereto as follows:

1. (a) Except as provided in subarticle (c) herein, Ephraim shall have the right to divert during the entire year all available water intercepted and collected in its canal system above the inlet portal of Ephraim Tunnel up to and including 72 cubic feet of water

per second of time. Ephraim will construct and maintain a diversion control structure acceptable to the United States at the inlet portal of Ephraim Tunnel which will bypass to Joes Valley Reservoir water in excess of 72 cubic feet per second of time.

(b) All water bypassed shall be stored in Joes Valley Reservoir for the credit of Ephraim and such water credited to Ephraim shall be available to Cottonwood on demand. For the initial contracting period of this agreement and thereafter unless adjusted pursuant to the provisions of Article 3(b) herein, it is agreed that the quantity of water so bypassed and stored in Joes Valley Reservoir for the credit of Ephraim is 100 acre-feet annually.

(c) In the event Joes Valley Reservoir fills and spills or releases are made for inspection or repair purposes at a time when Ephraim has water stored therein, Ephraim's water will be spilled or released subject to the provisions of Article 6. At any time Ephraim does not have credit for the exchange in Joes Valley Reservoir, Ephraim agrees to limit its diversion through the tunnel to water available under its own present water rights.

(d) Records of water bypassed and records of replacement water in Joes Valley Reservoir will be kept by the operator of Emery County Project.

2. (a) When Ephraim gives notice to the Regional Director, Region 4, Bureau of Reclamation, P. O. Box 11568, Salt Lake City, Utah 84111, that it is prepared to make the initial storage of water under the terms of this contract, it shall concurrently forward a check payable to the order of the United States of America in the amount of

\$50.00. Thereafter, during the term of this contract, Ephraim shall pay to the United States on or before January 1 of each year the sum of \$50.00.

(b) Ephraim will pay the operator of the Emery County Project concurrently with making the initial payment pursuant to (a) of this article and on or before January 1 of each year thereafter during the term of this contract the sum of \$75.00 as its share of annual operation and maintenance costs of Joes Valley Reservoir.

3. (a) This agreement shall be for an initial period commencing on the day and year first above written and extending to and including October 31, 1973, and shall continue thereafter for consecutive five-year periods commencing on the termination of the preceding period; unless terminated by any party hereto giving written notice thereof to the other parties at least thirty (30) days prior to the end of the then existing period.

(b) Near the end of the current contract period any party may request a review of the amount of payments required in Article 2 and the quantity of water to be bypassed as set out in Article 1(b), and upon agreement appropriate amendments will be made in this agreement effective for the successive five-year period.

4. (a) Ephraim's right to store Ephraim water under this agreement shall at all times be subject to the prior right of the United States and District to use Joes Valley Reservoir for the purposes of the Emery County Project and Ephraim's right to store may be used only at such times when such use is not adverse to said project as

exclusively determined by the Secretary of the Department of the Interior, or his authorized representative.

(b) Ephraim's right of storage hereunder shall at all times be subject to the terms, conditions, and provisions of the repayment Contract No. 14-06-400-2427, dated May 15, 1962, between the District and the United States and any amendments thereof or supplements thereto and to the right of the District and the United States to release or cause the release of any water out of the reservoir for flood control, for inspection, repair or maintenance of the Joes Valley Dam and appurtenant works. There shall be no obligation to Ephraim for monetary or other damages resulting from any such release of Ephraim water, nor shall the United States, District or Cottonwood be obligated to replace any water so released.

(c) Notwithstanding any other provision in this agreement, Ephraim may, upon written notice to the other parties hereto given on or before May 15 of any year, elect not to store and exchange pursuant to this agreement for that year, provided that there will be no reduction in the payments required in Article 2 for such year. In such event Ephraim may divert whatever water is available under its present own water rights.

5. It is understood and agreed that the storage of Ephraim water and the subsequent exchange may necessitate applications for changes and water exchanges being made and approved by the State Engineer of Utah pursuant to law. No protest against or objection to such applications for changes in place or nature of use and exchanges

will be made if they are consistent with the provisions of this contract, and neither enlarge the quantity or flow of water nor the length of time of use. It is the responsibility of Ephraim to obtain approval of such changes and exchanges if any are required and bear any costs or charges related thereto.

6. The United States, the District, and Cottonwood may enter into a similar contract with the Horseshoe Irrigation Company with respect to diversions through the Spring City Tunnel. Ephraim agrees that should such a contract be made, any spills at Joes Valley Dam, shall be charged proportionally to Horseshoe and Ephraim on the basis of the amount of water each has in Joes Valley Reservoir at the time of such spills or releases.

7. Ephraim, Cottonwood, and the District warrant that no person or selling agency has been employed or retained to solicit or secure this contract upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by Ephraim, Cottonwood, or the District for the purpose of securing business. For breach or violation of this warranty the United States shall have the right to annul this contract without liability.

8. No Member of or Delegate to the Congress or Resident Commissioner shall be admitted to any share or part of this agreement or to any benefit that may arise therefrom, but this restriction shall not be construed to extend to this agreement if made with a corporation

or company for its general benefit.

9. (a) Any notice or payment to be made to the United States shall be delivered or mailed, postage prepaid, to the Regional Director, Region 4, Bureau of Reclamation, 125 South State Street, P. O. Box 11568, Salt Lake City, Utah 84111. Any notice or payment to be made to the District shall be delivered or mailed, postage prepaid, to the Emery Water Conservancy District, Castle Dale, Utah 84513. Any notice to be given to Ephraim shall be delivered or mailed, postage prepaid, to the Ephraim Irrigation Company, Ephraim, Utah 84627. Any notice to be given to Cottonwood shall be mailed, postage prepaid, to the Cottonwood Creek Consolidated Irrigation Company, Castle Dale, Utah 84513.

(b) The designation of the addressee or the address given above may be changed by notice given in the same manner as provided in this article for other notices.

IN WITNESS WHEREOF the parties hereto have executed this

agreement the day and year first above written.

THE UNITED STATES OF AMERICA

By Carl L. Quiring
ACTING Regional Director, Region 4
Bureau of Reclamation

ATTEST:

Robert M. Brown
Secretary
(SEAL)

EPHRAIM IRRIGATION COMPANY

By Apton F. Larsen
President

ATTEST:

Mark Humphrey
Secretary
(SEAL)

COTTONWOOD CREEK CONSOLIDATED
IRRIGATION COMPANY

By Paul Eugene Johnson
President

ATTEST:

Mark Humphrey
Secretary
(SEAL)

EMERY WATER CONSERVANCY DISTRICT

By Paul Eugene Johnson
President